



Groz R Hodgner

George R. Hodges  
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
SHELBY DIVISION**

IN RE: )  
 ) Chapter 13  
ANDREW S. KUHARSKY ) Case No. 10-40997  
and )  
MERRY D. KUHARSKY )  
 )  
Debtors. )

## CONSENT ORDER GRANTING BANK OF TRAVELERS REST RELIEF FROM STAY

Upon consent of the Debtor, the Chapter 13 Trustee, and Bank of Travelers Rest for relief from stay, the Court hereby makes the following:

## FINDINGS OF FACT

1. On November 30, 2010 (the “Petition Date”), the Debtors, Andrew S. Kuharsky and Merry D. Kuharsky, filed a petition with the Bankruptcy Court for the Western District of North Carolina under Chapter 13 of Title 11 of the United States Code.
2. On the Petition Date, Bank of Travelers Rest. (“Bank of TR”) was the holder of a Promissory Note in the original principal amount of \$48,000.00 (“Note”).
3. The Note was secured by a Mortgage (“Mortgage”) on real property titled in the name of the Debtor which was generally located at 4 Yellowstone Drive, Greenville, South Carolina 29617 (the “Property”). The Mortgage was properly recorded on July 16, 2007 at Book 4815, Page 1695 of the Office of the Register of Deeds for Greenville County.

4. The Debtors did not list the debt on the Note in their Petition, nor did they schedule the Property.

5. Instead, the Debtors' Statement of Financial Affairs section five lists that the Debtors would surrender the Property to be sold at a foreclosure sale on December 1, 2010. The Court deems this to be consent to relief from stay. Moreover, counsel for the Debtor has also orally informed counsel for Bank of TR that he has no objection to relief from stay provided the Chapter 13 Trustee consents.

6. The Debtor and Bank of TR have consented to relief from stay as acknowledged by their signatures below. Chapter 13 Trustee has no objections.

NO OBJECTIONS:

/ Steven G. Tate  
Steven G. Tate  
P.O. Box 1778  
Statesville, NC 28687  
(704) 872-0068  
Chapter 13 Trustee

CONSENTED AND AGREED TO BY:

/s/ Ashley A. Edwards  
Ashley A. Edwards (N.C. Bar. no. 40695)  
Parker, Poe, Adams & Bernstein L.L.P.  
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Attorney for Bank of Travelers Rest

/s/ Joshua B Farmer  
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Attorney for the Debtors

**NOW THEREFORE**, it is hereby ORDERED, ADJUDGED and DECREED as follows:

A. Bank of Travelers Rest is granted relief from stay to pursue its state law remedies, including foreclosure, against the Property.

B. To the extent the sale of the Property results in a surplus after payment of Bank of Travelers Rest's debt and all applicable fees and costs, the trustee under the Deed of Trust shall pay such surplus to the Chapter 13 trustee.

This Order has been signed electronically.  
The judge's signature and court's seal  
appear at the top of the Order.

United States Bankruptcy Court